



# Tough Questions about ACLU Positions

## 1. Why do you defend Nazis and the Klan?

The ACLU's client is the Bill of Rights, not any particular person or group. We defend its principles – basic rights of citizens – whenever these are threatened. We do not believe that you can pick and choose when to uphold rights. If a right can be taken away from one person, it can be taken away from **anyone**. When you deny a right to someone with whom you disagree, you pave the way for that right to be denied to yourself or someone whom you strongly support. For example, the principle by which the Ku Klux Klan has the right to march is the same one that allows civil rights activists to march against racism.

## 2. You're all a bunch of liberals, aren't you?

The ACLU is a nonpartisan group. We have defended and worked with people all across the political spectrum, from Rev. Jerry Falwell and Oliver North to radio host Rush Limbaugh and former Republican member of Congress Bob Barr. The ACLU strongly supports women's right to choose abortion, yet we have also assisted anti-abortion activists when police used excessive force in arresting them. The ACLU has won support from women's groups for our stand on women's rights, but has angered some feminists for our First Amendment stand on pornography.

## 3. Why does the ACLU support cross burning?

The ACLU condemns all forms of racism. However, the ACLU does believe that in some specific cases, the First Amendment protects the burning of a cross. People have the right to be bigots and to make extreme, symbolic statements of their bigotry. Burning a cross on one's own lawn in the middle of the day without making specific threats against anybody is an example of this. That's why the ACLU opposes laws that say any and all instances of cross burning are illegal. Such laws are too broad and have the result of preventing people from exercising their rights to free speech. As an answer to racist speech, the ACLU advocates more speech directed against racism, not the suppression of speech.

## 4. Why does the ACLU support pornography? Why are you in favor of child porn?

The ACLU **does not support** pornography. But we do oppose virtually all forms of censorship. Possessing books or films should not make one a criminal. Once society starts censoring "bad" ideas, it becomes very difficult to draw the line. Your idea of what is offensive may be a lot different from your neighbor's. In fact, the ACLU does take a very purist approach in opposing censorship. Our policy is that possessing even pornographic material about children should not itself be a crime. The way to deal with this issue is to prosecute the makers of child pornography for exploiting minors.

## 5. Why doesn't the ACLU support gun ownership/gun control?

The Second Amendment provides: "A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The ACLU of Arizona policy on the individual right to bear arms is different from our National ACLU policy on the issue. The National ACLU, based in New York, believes that the Second Amendment protects a collective right rather than an individual right. The National ACLU Policy #47 supports the Supreme Court's 1939 decision in *United States v. Miller*, which endorsed the view that the Second Amendment does not confer an unlimited right upon individuals to own guns or other weapons, nor does it prohibit reasonable regulation of gun ownership, such as licensing and registration. The ACLU of Arizona, which is based in Phoenix, supports the individual right to bear arms – a right that is expressly identified in Article 2, Section 26 of the Arizona Constitution. In 2008, the U.S. Supreme Court in *D.C. v. Heller* held for the first time that the Second Amendment protects an individual's right to keep and bear arms, whether or not associated with a state militia. In July 2008, the ACLU of Arizona Board of Directors passed the following policy: "Resolved that ACLU of Arizona does not follow national board policy #47 that the right to bear arms is a collective, not an individual right. The Arizona Constitution expressly provides that the right to bear arms, to the extent constitutionally protected, is an individual right, so policy #47 has never been operative in Arizona."

## 6. Why does the ACLU support the rights of criminals but not victims of crime?

The ACLU supports *everybody*'s rights. Citizens are outraged by crime and understandably want criminals caught and prosecuted. The ACLU simply believes that the rights to fair treatment and due process must be respected for people accused of crimes. Respecting these rights does not cause crime, nor does it hinder police from pursuing criminals. It should, and does in fact, cause police to avoid sloppy procedures.

## **7. Why is the ACLU against God/Christianity/the Bible?**

The ACLU strongly supports our country's guarantee that all people have the right to practice their own religion, as well as the right not to practice any religion. The best way to ensure religious freedom for all is to keep the government out of the business of pushing religion on anybody. The ACLU strongly supports the separation of church and state. In practice, this means that people may practice their religion – just not with government funding or sponsorship. This simple principle in no way banishes or weakens religion. It only means that no one should have somebody else's religion forced on him or her, even if most other people in a community support that religion.

## **8. Why is the ACLU against drug testing of employees?**

The ACLU, of course, believes that employers have the right to discipline and fire workers who fail to perform on the job. However, the ACLU does oppose indiscriminate urine testing because the process is both unfair and unnecessary. Having someone urinate in a cup is a degrading and uncertain procedure that violates personal privacy. Further, drug tests do not measure impaired job performance. A positive drug test simply indicates that a person may have taken drugs at some time in the past – not that they are failing to perform properly in their assigned work. And the accuracy of some drug tests is notoriously unreliable. The ACLU especially objects to mass random drug testing of workers. There is no reason that a person should have to prove he or she is "innocent" of taking drugs when there is no evidence that he or she has done so. In general, what workers do off the job should be their own business so long as they are performing satisfactorily at work.

## **9. Why does the ACLU help rapists and child molesters?**

Of course, the ACLU supports the prosecution and conviction of rapists and child molesters. They should receive appropriate punishment – especially for repeat offenders. But like all convicted felons, they are entitled to some basic constitutional protections. In this regard the ACLU opposes the Community Protection Act passed by the Washington Legislature. It calls for locking up an individual indefinitely – potentially for life – after he has served his prison term. The punishment is based not on additional wrongful acts, but on speculation that the person may commit illegal acts in the future. This is unconstitutional preventive detention. It is based on the unscientific notion that society can predict with any reasonable standard of accuracy how a particular individual will act at some unspecified time.

## **10. Why did the ACLU defend NAMBLA?**

In representing NAMBLA, the ACLU does not advocate sexual relationships between adults and children. In celebrated cases, the ACLU has stood up for everyone from Oliver North to the National Socialist Party. In spite of all that, the ACLU has never advocated Christianity, ritual animal sacrifice, trading arms for hostages or genocide. What we do advocate is robust freedom of speech. This lawsuit strikes at the heart of freedom of speech. The defense of freedom of speech is most critical when the message is one most people find repulsive. The case is based on a shocking murder. But the lawsuit says the crime is the responsibility not of those who committed the murder, but of someone who posted vile material on the Internet. The principle is as simple as it is central to true freedom of speech: those who do wrong are responsible for what they do; those who speak about it are not. It is easy to defend freedom of speech when the message is something many people find at least reasonable. But the defense of freedom of speech is most critical when the message is one most people find repulsive. That was true when the Nazis marched in Skokie. It remains true today.

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